

REMARKS

Applicants thank the Examiner for the through consideration of the present application. Claims 36-50 are currently under consideration. Claims 14-35 have been withdrawn from consideration. The Examiner is respectfully requested to reconsider his rejection in view of the Amendments and Remarks as set forth below.

Rejection under 35 U.S.C. §103

Claims 36-43, 45, 49 and 50 stand rejected under 35 U.S.C §103 as being obvious over Wild (WO 89/12006) in view Mead et al (U.S. Patent 3,186,625), Ikeda et al. (U.S. Patent 4,454,979, Rutter et al. (U.S. Patent 4,981,374), Wild (EP 380107) and further in view Ostendorf (EP 524487), Spiess (U.S. Patent 3,604,491 and Toyoshima (JP 3-289451). This rejection is respectively traversed.

Before discussing the merits of the rejection, Applicants wish to clarify their understanding of the rejection. Applicants understand that this is an eight-way combination of references. Applicants request the Examiner to further specify how the various teachings of the references are combined. The Examiner has pointed out a number of features shown in the

references, but has not indicated how these are to be combined. For example, the Examiner refers to Mead et al., Ikeda et al., Rutter et al. and Wild'107 as all teaching a duct means with a seal. If each of these references teaches this feature, it is not clear how these references are all combined with the primary reference and what parts are being considered from each of the references. The Examiner is requested to make this clear.

It is also noted that the Examiner has referred to claim 1 at several points in his explanation of the rejection. Since claim 1 has been cancelled, it is assumed that the Examiner is meaning to refer to claim 36 which is the only independent claim under consideration.

The Examiner has construed many of the features of claim 36 as being functional capabilities because the claim referred to the situation at different points in time. Applicants disagree with the Examiner's construction of the capabilities of the claimed invention. In order to make this clearer, Applicants have amended claim 36 so that the claimed structure is positively claimed and that functional capabilities are claimed as such. Thus, claim 36 now makes it clear that the container has a duct means which extends to the outside of the container and that the duct means is sealed with a first terminal edge. These are positive claim limitations and not functional

limitations. The claim further describes the first terminal edge as being removable so that the container is in communication with the outside and that the duct means is resealable after the first terminal edge is removed. These limitations describe the capabilities of the terminal edge and the duct means. Thus, it is now clear that the duct means is actually sealed and that it extends outside the container. When the edge is removed, the duct means is in communication with the outside and can be resealed.

The amendments to claim 36 now make it clear that the Examiners construction of the claim is incorrect. Accordingly, Applicants submit that the current rejection no longer applies to this claim. The Examiner has cited references to show a duct means with a seal which is capable of being removed when filling the container. Since it is now clear that this is not the present claimed invention, Applicants submit that the teachings of these references no longer apply and that claim 36 is allowable.

Furthermore, Applicants submit that there is no motivation shown for combining the various features of all these references. The Examiner has argued that the invention is a series of conventional structures which produce no unexpected result, but has not shown any motivation why one skilled in the

art would know to combine these various features together. Especially, the Examiner has not shown motivation for combining the eight references included in the rejection. Accordingly, Applicants submit that claim 36 is not obvious over these references.

Claims 37-50 depend from claim 36 and as such are also considered to be allowable. In addition, each of these claims has other features which makes them additionally allowable. In particular, these claims discuss the features of the duct means, the carrying means and the walls of the container. Accordingly, these claims are considered to be additionally allowable.

Claim 44 stands rejected under 35 U.S.C §103 of being obvious over the references noted above and further in view of Saito et al. (EP 539,800). This rejection is respectively traversed.

First, claim 44 is allowable based on its dependency from claim 36. Further, the Examiner cites Saito et al. to show the use of boundary lines that are arched. Applicants again submit that it would not be obvious to add an additional reference to the eight applied references and especially without any showing of motivation. Accordingly, Applicants submit that this claim is additionally allowable.

Claims 46-48 stand rejected under 35 U.S.C §103 as being obvious over the eight references applied above and further in view of Buchaman et al. (WO 98/00286), Jensen et al. (U.S. Patent 4,023,607), Aesbach et al. (WO 95/3129), Speiss (U.S. Patent 3,604,491) and Toyoshima (JP 3-289451). This rejection is respectively traversed.

The Examiner has added three additional references to the eight originally applied references and has repeated the citation of Speiss and Toyoshima which are included in the eight references. First, Applicants submit these claims are allowable based on their dependency from allowable claim 36. Secondly, Applicants submit that it would not be obvious to include the teachings of three additional references as suggested by the Examiner. The Examiner still has not provided motivation for combining such a large number of references. Accordingly, Applicants submit claims 46-48 are additionally allowable.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this reconsideration of the rejections and allowance of all the claims is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a two (2) month extension of time for filing a reply in connection with the present application, and the required fee of \$420.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

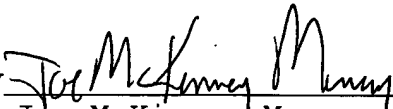
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Art Unit 1761
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required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension
of time fees.

Respectfully submitted,

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0104-0290P

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